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SAFE LEAVE IN STATE PAID FAMILY AND MEDICAL LEAVE PROGRAMS

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Paid family and medical leave refers to policies that enable workers to receive compensation when they take extended time off work for qualifying reasons, such as bonding with a new child, recovering from one's own serious illness, or caring for a seriously ill family member. Some state paid family and medical leave laws include safe leave provisions. Safe leave is leave from work for eligible employees who are survivors of gender-based violence and harassment, to seek help, support, and services related to the violence they've experienced, or for family members of such survivors to assist in fulfilling those needs. States may require safe leave through paid family and medical leave, paid sick leave, and other leave programs, with some states providing safe leave through multiple leave programs. This brief focuses on safe leave in state paid family and medical leave laws, please see accompanying materials for information on safe leave in state paid sick leave laws. This brief explores different aspects of safe leave as a part of paid family and medical leave including leave coverage, amount of leave, permissible uses of leave, certification requirements confidentiality requirements, and employer notice requirements.[i]

Background on Impact of Gender-Based Violence and Harassment on Work and Safe Leave Provisions

Every year, millions of Americans are negatively impacted by forms of gender-based violence and harassment (GBVH), including, but not limited to, domestic violence, dating violence, sexual assault, stalking, trafficking and sexual harassment. In particular, survivors[ii] of violence and harassment often experience devastating financial and economic harm related to the violence they've experienced.[1] GBVH disproportionately impacts certain communities, such as American Indian or Alaska Native women,[2] LGBTQIA+ individuals[3] and people with disabilities.[4]

Survivors of GBVH may miss work because of the violence they've experienced. According to national survey data, 15.9 million U.S. women (12.7 percent) and 6.7 million U.S. men (5.7 percent) have missed at least one day of work due to intimate partner violence over their lifetimes.[5] Survivors may miss work for a number of reasons including, but

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1. "U.S. National Plan to End Gender-Based Violence: Strategies for Action." The White House. https://www.whitehouse.gov/wp-content/uploads/2023/05/National-Plan-to-End-GBV.pdf.

2. Women and racial and ethnic minority groups experience a higher burden of sexual violence. For example, more than two in five non-Hispanic American Indian or Alaska Native women were raped in their lifetime. "Missing and Murdered Indigenous People Crisis: Violence Against Native Americans and Alaska Natives far exceed national averages." U.S. Department of the Interior Bureau of Indian Affairs. https://www.bia.gov/service/mmu/missing-and-murdered-indigenous-people-crisis.

3. Truman, Jennifer L. and Rachel E. Morgan. 2022. "Violent Victimization by Sexual Orientation and Gender Identity, 2017-2020." U.S. Department of Justice Bureau of Justice Statistics. https://bjs.ojp.gov/content/pub/pdf/vvsogi1720.pdf.

4. "Sexual Violence and Intimate Partner Violence Among People with Disabilities," U.S. Centers for Disease Control and Prevention (last updated June 1, 2020). https://www.cdc.gov/sexual-violence/about/sexual-violence-and-intimate-partner-violence-among-people-with-disabilities.html.

5. Leemis, Ruth W. , Norah Friar, Srijana Khatiwada, May S. Chen, Marcie-jo Kresnow, Sharon G. Smith, Sharon Caslin, and Kathleen C. Basile, "The National Intimate Partner and Sexual Violence Survey:, 2016/2017 Report on Intimate Partner Violence.," 2022 U.S. Centers for Disease Control and Prevention. https://www.cdc.gov/nisvs/documentation/nisvsreportonipv_2022.pdf?CDC_AAref_Val=https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV_2022.pdf.

not limited to, seeking medical or mental health care, relocating to a safer home, going to court or being prevented from working by an abuser.

To address the negative impact of GBVH, survivors may need to take time off from work without fear of losing out on a paycheck or being fired from their jobs to get the help and support they need. Safe leave is paid or unpaid leave from work that allows survivors and their family members to seek help, support and services related to the violence they've experienced. Because safe leave is often job-protected, safe leave can also provide job security for survivors.[iii] This brief discusses safe leave available through state *paid* family and medical leave programs, which may or may not offer job protection.

Timeline of Implementation of State Paid Family and Medical Leave (PFML) Safe Leave Provisions

As of April 2024, six of the 13 state paid family and medical leave laws permit employees to take leave to address the needs of survivors of domestic violence, sexual assault or stalking (varies by state).[6]

Four of the six states, Colorado,[7] Connecticut,[8] New Jersey[9] and Oregon,[10] have paid family and medical leave laws with safe leave provisions currently in effect. Maine[11] and Minnesota[12] recently passed paid family and medical leave laws that haven't gone into effect yet, but they include, among the permissible reasons for taking leave, addressing the needs of survivors of domestic violence, sexual assault and stalking.

Figure 1: Effective Dates of Safe Leave Provisions by State

Note: This figure represents the chronological timeline of the effective date of safe leave provisions in state paid family and medical leave laws. It focuses on the effective date of safe leave provisions within the laws. Premiums for Connecticut began in 2021; premiums for Colorado began in 2023; and premiums for Maine will begin in 2025. New Jersey's law did not require paid leave until 2020.

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6. Sophia Mitchell, "History of Paid Leave in the United States," Women's Bureau, U.S. Department of Labor (March 2024). https://www.dol.gov/sites/dolgov/files/WB/paid-leave/HistoryOfPaidLeaveUS.pdf.
7. Colo. Rev. Stat. §§ 8-13.3-503, 8-13.3-504.
8. Conn. Gen. Stat. § 31-51ss.
9. N.J. Rev. Stat. §§ 43:21-27(o)(3), 43:21-29(b).
10. Or. Rev. Stat. § 657B.020.
11. H.P. 163, 2023 Public Law, Chapter 412, Part AAA (Me. 2023), https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0163&item=14&snum=131(Contributions to begin January 1, 2025, and claims processing to begin May 1, 2026).
12. H.F. 2, 93d Leg., Reg. Sess. (Minn. 2023), https://www.revisor.mn.gov/bills/text.php?number=HF2&type=bill&version=9&session=ls93&session_year=2023&session_number=0&format=pdf (workers can begin to take paid family and medical leave on January 1, 2026).

Leave Eligibility and Forms of GBVH Covered by State PFML Safe Leave Provisions

State paid family and medical leave laws may cover different forms of GBVH under their safe leave provision (Table 1). In addition, states may define who is eligible to use safe leave differently based on the amount of time the employee has worked for the employer, whether they are a full-time or part-time employee and other factors. Please consult the state statutes for definitions of eligible employee and the forms of GBVH listed.

Table 1: Leave Eligibility and Forms of GBVH Covered by State PFML Safe Leave Provisions

State	Who is Eligible for Safe Leave?[iv]	What Forms of GBVH Are Covered?[v]
Colorado	Eligible individual who is a survivor, or eligible individual whose family member is a survivor	Domestic violence, stalking, sexual assault or abuse
Connecticut	Eligible employee who is a survivor	Family violence
Maine	Eligible individual who is a survivor, or whose family member is a survivor	Violence, assault, sexual assault, stalking or any act that would support an order for protection
Minnesota	Eligible employee who is a survivor or whose family member is a survivor	Domestic abuse, sexual assault and stalking
New Jersey	Eligible employee who is a survivor or whose family member is a survivor	Domestic violence or a sexually violent offense
Oregon	Eligible employee who is a survivor or whose minor child or dependent is a survivor	Sexual assault, domestic violence, harassment or stalking[13]

Amount of State PFML Safe Leave

Each state's paid family and medical leave law allows for a certain amount of time off to be used for safe leave (Table 2). However, individuals must be considered eligible employees to use safe leave benefits, which may mean being employed for a certain period of time before they are deemed eligible. Please consult state statutes for more information.

Table 2: Amount of State PFML Safe Leave

Amount	State	Explanation
12 Weeks (+)	Minnesota	**Minnesota** allows up to 12 weeks for a serious health condition and 12 weeks for safe leave in a benefit year. But an eligible employee can only take 20 weeks of combined leave (serious health condition and safe leave) in one benefit year.

[13] Under Oregon law, bias or bias crimes are also listed as forms of gender-based violence and harassment covered by safe leave.

Amount	State	Explanation
12 Weeks	Colorado, Maine, New Jersey, Oregon	**Colorado** allows up to 12 weeks in a one-year period for safe leave. **Maine** allows up to 12 weeks in the same benefit year. **New Jersey** allows up to 12 consecutive weeks or 56 individual days in a 12-month period. **Oregon** allows up to 12 weeks paid leave in a 52-week period that may be used for safe leave.
12 Days	Connecticut	**Connecticut** allows up to 12 days of income replacement.[14]

Permissible Uses for State PFML Safe Leave Provisions

Each state's paid family and medical leave program allows for various permissible uses for safe leave (Table 3). These permissible uses are intended to help the survivor recover from victimization related to the violence they've experienced. Below are several permissible uses that are commonly found in safe leave legislation or policies; however, state PFML laws may include permissible uses in addition to these categories.

Common Permissible Uses for Leave in State PFML Laws

Seek legal assistance or a protective order – Allows survivors and their family members paid time off to make an appointment with a lawyer, attend civil or criminal proceedings or seek a civil protective or restraining order.[vi]

Obtain health care services, including medical, mental health, and psychological care – Allows survivors and their family members to seek medical care or treatment, mental health care or treatment or psychological care or treatment related to the violence they've experienced.

Relocate or secure their home – Allows survivors and their family members to either move from their current home if it is unsafe or secure their existing home. Securing an existing home can include, but isn't limited to, activities such as changing the door locks, securing or repairing windows that were broken due to violence and obtaining or updating a security system.

Obtaining services from a victim services organization or similar organization – Allows survivors and their family members to seek services from a victim services organization or an organization providing support and assistance to survivors. This allows survivors, or their family members, to take time off from work to seek assistance with referrals to legal assistance, benefit programs and other services survivors may need.

[14] Under the Connecticut Family Violence Leave Act, workers can also apply for 12 days of unpaid leave for the same family violence reasons as allowed under the Connecticut Paid Leave Act.

Table 3: Permissible Uses for State PFML Safe Leave Provisions

	CO	CT	ME	MN	NJ	OR
Seek legal assistance or attend court proceedings (which may include seeking a protective order)	✔	✔	✔	✔	✔	✔
Obtain/seek healthcare services (medical, mental health, psychological)	✔	✔	✔	✔	✔	✔
Relocate or making home secure/safe	✔	✔ (Only relocate)	✔	✔ (Only relocate)	✔	✔
Obtain services from victim services organization		✔		✔	✔	✔

Confidentiality Provisions for State PFML Safe Leave Provisions

Many safe leave provisions within state paid family and medical leave laws contain confidentiality provisions that ensure a survivor, or their family member's, reason for seeking leave will remain confidential. Confidentiality provisions address many survivors' concerns about their colleagues knowing about the violence they are experiencing or have experienced. Confidentiality provisions ensure that survivors' information will be kept private unless it must be disclosed by law or policy.

Colorado, Connecticut, Maine, New Jersey, and Oregon have some form of a confidentiality provision within their paid family and medical leave law. The provision keeps files and records related to a request for safe leave confidential unless disclosure is required by law or permitted by the eligible employee.

Minnesota has no explicit confidentiality provision.

Safe Leave Certification Within State PFML Laws

Many states' paid family and medical leave programs allow employers to require some form of certification or documentation as proof the eligible employee is taking leave for the reasons given. Similarly, safe leave provisions also may allow employers to require certification that the survivor, or their family member, is taking leave related to the violence experienced. For example, the agency that administers Connecticut's paid leave program requires an eligible employee to provide certification they are taking leave for safe leave purposes, and an employer may require the eligible employee to provide an additional third-party statement (ex. police or court record) verifying the eligible employee's qualifying need for leave.

Connecticut and Minnesota require some form of safe leave certification under their paid family and medical leave laws. Oregon and New Jersey do not require certification, but employers may ask an eligible party to provide certification. Colorado and Maine don't clearly state whether certification is required.

Because survivors have different needs related to the violence they've experienced, a recommended practice is either allowing survivors and their family members to self-certify their reasons for needing leave or not requiring certification from a survivor or their family member. For example, some survivors may need to relocate related to the violence they have experienced but they aren't working with the police, the court system, any healthcare providers, or victim service organizations in order to relocate. Therefore, they would need the leave related to violence but have no third party to certify their need to take leave if that was required by state law. Additionally, many survivors are handling a lot of stressors at once, including potentially facing stigma and fear related to the violence they experienced, and may not have time to obtain signed documents from a third party related to the reason they are seeking leave.

Definition of Family Member Within State PFML Safe Leave Provisions

Most safe leave provisions allow an eligible employee to use leave for their own experience of violence, or to assist a family member related to the violence they've experienced. For example, when an eligible employee's child is sexually assaulted and the eligible employee needs time off to take them to the doctor or therapy appointments. Different safe leave provisions allow the use of leave to assist different family members. Please consult the state statutes for the specific relationships included.

Colorado, Maine, Minnesota, and New Jersey's paid family and medical leave laws all include a child, parent, spouse/domestic partner, sibling, grandparent, grandchild and any other individual with whom the covered individual has a significant personal bond/family-like relationship as a family member for purposes of safe leave.

Oregon's paid family and medical leave law includes only children or dependents as relevant family members for purposes of safe leave. Connecticut's paid family and medical leave law refers to only the eligible employee as eligible for safe leave.

Employer Notice Requirement for State PFML Programs

Some state paid family and medical leave programs require employers to post or provide notice to employees about their eligibility to apply for paid leave. Additionally, some laws also specify that employers must post specifically about eligibility for safe leave for their employees. This is a best practice as many employees may not know they are eligible for safe leave or that safe leave exists. Requiring conspicuous notice in the workplace ensures more employees are aware of their rights and benefits related to safe leave.

Table 4: Employer Notice Requirements of State PFML Law

State	Requirement	Safe Leave Included in Notice?
Colorado	Each employer shall post in a prominent location and inform employees in writing upon hiring and upon learning of an employee experiencing an event that triggers eligibility.	Yes, see Example 1
Connecticut	Each employer shall provide notice both at the time of hiring and annually thereafter.	Yes, see Example 1
Maine	Employers shall post notice in a conspicuous location in the workplace and notify employee not more than 30 days from the beginning date of the employee's employment.	Not created as of time of this publication

State	Requirement	Safe Leave Included in Notice?
Minnesota	An employer must post notice in a conspicuous place and notify employee within a certain time frame.	Not created as of time of this publication
New Jersey	Employers shall post notice in a conspicuous place.	Yes, see Example 1 and Example 2
Oregon	Employer is required to post notice in a clearly visible place at each work site and must provide it electronically to remote workers.	Yes, see Example 1

Conclusion

Safe leave is a critically important workplace benefit that allows survivors and their family members the time they need to seek safety, support and healing. While only six of the thirteen states with paid family and medical leave laws offer safe leave protections, it has recently become more common to include these protections.

[i] Nothing in this document constitutes legal advice. The materials provided by the Women's Bureau are for informational purposes only and are not intended as a substitute for seeking legal advice. Any links to non-federal websites on this page provide additional information that is consistent with the intended purpose of this federal site, but linking to such sites does not constitute an endorsement by the U.S. Department of Labor of the information or organization providing such information. For more information, please visit https://www.dol.gov/general/disclaim.

[ii] Throughout this brief, we use the terms survivor of violence and victim of violence interchangeably. Some states refer to the individuals eligible for safe leave as victims while others refer to the individuals eligible for safe leave as survivors.

[iii] Not all state safe leave provisions provide job-protected leave. Job-protected leave means an employee will be restored to the same or an equivalent job when they return to work. Please consult the state statute to determine if the leave provided is job-protected.

[iv] Throughout this section there are different terms used such as "covered individual" or "eligible employee." Those terms are specific to each state's statute. Each state defines who a covered individual or eligible employee is differently. Consult each state's statute to determine who is considered eligible for safe leave under the state paid family and medical leave law.

[v] An important distinction in every state's paid family and medical leave law safe leave provision is how the forms of GBVH covered, such as domestic violence, sexual assault, and stalking, are defined. Every state defines domestic violence, sexual assault, and stalking differently. One key difference among states is the definition of the relationship between the survivor and the perpetrator needed to be considered domestic violence, sexual assault, or stalking. It is a best practice to be as broad or inclusive as possible when defining what relationships or actions qualify as domestic violence, sexual assault, or stalking when drafting safe leave provisions. For example, if a statute states domestic violence can only take place between a married couple or two people cohabitating, that leaves out many relationships that can be impacted by domestic violence and impacts those survivors' ability to qualify for safe leave.

[vi] Each state defines a civil protective order and a restraining order differently. Generally, a civil protective order requires a person to either do or refrain from doing certain actions. For example, a civil protective order may require an abuser to stay away from a survivor's home or work but it can also be used for child custody or firearm relinquishment. Typically, a civil protective order requires some form of relationship between the two parties. A restraining order is similar in nature to a civil protective order but does not require a relationship between the two parties. Civil Protection Orders, Victim Connect Resource Center. https://victimconnect.org/learn/protection-orders/.